

Article 8.

Department of Transportation.

Part 1. General Provisions.

§ 143B-345. Department of Transportation – creation.

There is hereby created and established a department to be known as the "Department of Transportation" with the organization, powers, and duties defined in Article 1 of Chapter 143B, except as modified in this Article. (1975, c. 716, s. 1.)

§ 143B-346. Department of Transportation – purpose and functions.

The general purpose of the Department of Transportation is to provide for the necessary planning, construction, maintenance, and operation of an integrated statewide transportation system for the economical and safe transportation of people and goods as provided for by law. The Department shall also provide and maintain an accurate register of transportation vehicles as provided by statutes, and the Department shall enforce the laws of this State relating to transportation safety assigned to the Department. The Department of Transportation shall be responsible for all of the transportation functions of the executive branch of the State as provided by law except those functions delegated to the Utilities Commission and the Commissioners of Navigation and Pilotage as provided for by Chapter 76. The major transportation functions include aeronautics, highways, mass transportation, motor vehicles, and transportation safety as provided for by State law. The Department of Transportation shall succeed to all functions vested in the Board of Transportation and the Department of Motor Vehicles on July 1, 1977. (1975, c. 716, s. 1; 1977, c. 464, s. 2; 2011-145, s. 14.6(e).)

§ 143B-347. Repealed by Session Laws 1977, c. 464, s. 3.

§ 143B-348. Department of Transportation – head; rules, regulations, etc., of Board of Transportation.

(a) The Secretary of Transportation shall be the head of the Department of Transportation. He shall carry out the day-to-day operations of the Department and shall be responsible for carrying out the policies, programs, priorities, and projects approved by the Board of Transportation. He shall be responsible for all other transportation matters assigned to the Department of Transportation, except those reserved to the Board of Transportation by statute. Except as otherwise provided for by statute, the Secretary shall have all the powers and duties as provided for in Article 1 of Chapter 143B including the responsibility for all management functions for the Department of Transportation. The Secretary shall be vested with authority to adopt design criteria, construction specifications, and standards as required for the Department of Transportation to construct and maintain highways, bridges, and ferries. The Secretary or the Secretary's designee shall be vested with authority to promulgate rules and regulations concerning all transportation functions assigned to the Department.

(b) All rules, regulations, ordinances, specifications, standards, and criteria adopted by the Board of Transportation and in effect on July 1, 1977, shall continue in effect until changed by the Board of Transportation or the Secretary of Transportation. The Secretary shall have complete authority to modify any of these matters existing on July 1, 1977, except as specifically restricted by the Board. Whenever any such criteria, rule, regulation, ordinance, specification, or standards are continued in effect under this section and the words "Board of Transportation" are used, the words shall mean the "Department of Transportation" unless the context makes such meaning inapplicable. All actions pending in court by or against the Board of Transportation may continue to be prosecuted in that name without the necessity of formally amending the name to the Department of Transportation.

(c) The Secretary of Transportation shall require that every transportation station, rest area, and welcome center in the State prominently display in a place that is clearly conspicuous and visible to employees and the public a public awareness sign created and provided by the North Carolina Human Trafficking Commission that contains the National Human Trafficking Resource hotline information. (1975, c. 716, s. 1; 1977, c. 464, s. 4; 2010-165, s. 11; 2017-57, ss. 17.4(e), (g).)

§ 143B-349: Repealed by Session Laws 1977, c. 464, s. 5.

Part 2. Board of Transportation.

§ 143B-350. Board of Transportation – organization; powers and duties, etc.

(a) Board of Transportation. – There is hereby created a Board of Transportation. The Board shall carry out its duties consistent with the needs of the State as a whole. The diversity and size of the State require that regional differences be considered by Board members as they develop transportation policy and projects for the benefit of the citizens of the State.

(b) Membership of the Board. –

- (1) Number, appointment. – The Board of Transportation shall have 19 voting members. Fourteen of the members shall be division members appointed by the Governor. Five shall be at-large members appointed by the Governor. At least three members of the Board shall be registered voters of a political party other than the political party of the Governor. The Secretary of Transportation shall serve as an ex officio nonvoting member of the Board. No more than two members of the Board may reside in the same highway division.
- (2) Division members. – One member shall be appointed from and be a resident of each of the 14 highway divisions. The Governor, in selecting division members, shall consider for appointment persons suggested by the Transportation Advisory Committees located within each division. Division members shall direct their primary effort to developing transportation policy and addressing transportation problems in the region they represent. Division members shall regularly consult with and consider the views of local government units and Transportation Advisory Committees in the region they represent.

- (3) At-large members. – Five members shall be appointed by the Governor from the State at large. At-large members appointed pursuant to this subdivision shall develop transportation policy and address transportation problems with a statewide perspective. At-large members appointed under this subdivision shall possess the following qualifications:
- a. One at-large member shall be a person with expertise in environmental issues affecting the State;
 - b. One at-large member shall be a person familiar with the State ports and aviation issues;
 - c. One at-large member shall be a person residing in a rural area of the State with broad knowledge of and experience in transportation issues affecting rural areas;
 - d. One at-large member shall be a person residing in an urban area with broad knowledge of and expertise in mass transit;
 - e. One at-large member shall be a person with broad knowledge of and expertise in government-related finance and accounting.

(c) Staggered Terms. – The terms of all Board members serving on the Board prior to January 15, 2001, shall expire on January 14, 2001. A new board of 19 members shall be appointed with terms beginning on January 15, 2001. The Board shall serve the following terms: division members representing divisions 1, 3, 5, 7, 9, 11, and 13 and the three at-large members filling the positions designated in sub-subdivisions (b)(3)a., b., and e. of this section shall serve four-year terms beginning on January 15, 2001, and four-year terms thereafter; and division members representing divisions 2, 4, 6, 8, 10, 12, and 14 and the two at-large members filling the positions designated in sub-subdivisions (b)(3)c. and d. of this section shall serve two-year terms beginning January 15, 2001, and four-year terms thereafter.

(d) Holdover Terms; Vacancies; Removal. – Members shall continue to serve until their successors are appointed. The Governor may appoint a member to serve out the unexpired term of any Board member. The Governor may remove any member of the Board for any cause the Governor finds sufficient. The Governor shall remove any member of the Board upon conviction of a felony, conviction of any offense involving a violation of the Board member's official duties, or for a violation of the provisions of subsections (i), (j), and (k) of this section or any other code of ethics applicable to members of the Board as determined by the Governor or the Governor's designee.

(e) Organization and Meetings of the Board. – Within 60 days after January 15, 2001, and thereafter within 60 days following the beginning of the regular term of the Governor, the Governor or his designee shall call the Board into session. The Board shall select a chair and vice-chair from among its membership for two-year terms. The Board may select a chair or vice-chair for one additional two-year term. The Board of Transportation shall meet once in each 60 days at such regular meeting times as the Board may by rule provide and at any place in the State as the Board may provide. The Board may hold special meetings at any time at the call of the chairman or any three members. The Board shall have the power to adopt and enforce rules and regulations for the government of its business and proceedings. The Board shall keep minutes of its meetings,

which shall at all times be open to public inspection. The majority of the Board shall constitute a quorum for the transaction of business. Board members shall receive per diem and necessary travel and subsistence expenses in accordance with G.S. 138-5 and G.S. 138-6, as appropriate.

(f) Duties of the Board. – The Board of Transportation has the following duties and powers:

- (1) To formulate policies and priorities for all modes of transportation under the Department of Transportation.
- (2) To advise the Secretary on matters to achieve the maximum public benefit in the performance of the functions assigned to the Department.
- (3) To ascertain the transportation needs and the alternative means to provide for these needs through an integrated system of transportation taking into consideration the social, economic and environmental impacts of the various alternatives.
- (4) To approve a schedule of all major transportation improvement projects and their anticipated cost. This schedule is designated the Transportation Improvement Program. The Board shall publish the schedule in a format that is easily reproducible for distribution and make copies available for distribution in accordance with the process established for public records in Chapter 132 of the General Statutes.
- (4a) To approve a schedule of State highway maintenance projects and their anticipated cost. This schedule is designated the Highway Maintenance Improvement Program and is established in G.S. 136-44.3A. The Board shall publish the schedule on the Department's Web site by April 1 of each year. The document that contains the Highway Maintenance Improvement Program shall include the anticipated funding sources for the improvement projects included in the Highway Maintenance Improvement Program, a list of any changes made from the previous year's Highway Maintenance Improvement Program, and the reasons for the changes.
- (5) To consider and advise the Secretary of Transportation upon any other transportation matter that the Secretary may refer to it.
- (6) To assist the Secretary of Transportation in the performance of his duties in the development of programs and approve priorities for programs within the Department.
- (7) To allocate all highway construction and maintenance funds appropriated by the General Assembly as well as federal-aid funds which may be available.
- (8) To approve all highway construction programs.
- (9) To approve all highway construction projects and construction plans for the construction of projects.
- (10) To review all statewide maintenance functions.
- (11) To award all highway construction contracts.
- (12) To authorize the acquisition of rights-of-way for highway improvement projects, including the authorization for acquisition of property by eminent domain.
- (12a) To approve partnership agreements with the North Carolina Turnpike Authority, private entities, and authorized political subdivisions to finance, by

tolls, contracts, and other financing methods authorized by law, the cost of acquiring, constructing, equipping, maintaining, and operating transportation infrastructure in this State, with priority given to highways, roads, streets, and bridges.

(13) Repealed by Session Laws 2010-165, s. 13, effective August 2, 2010.

(f1) Local Government Participation. – The ability of a local government to pay in part or whole for any transportation improvement project shall not be a factor considered by the Board of Transportation in its development and approval of a schedule of major State highway system improvement projects to be undertaken by the Department under G.S. 143B-350(f)(4).

(f2) Approval of aircraft and ferry purposes. – Before approving the purchase of an aircraft from the Equipment Fund or a ferry in a Transportation Improvement Program, the Board of Transportation shall prepare an estimate of the operational costs and capital costs associated with the addition of the aircraft or ferry and shall report those additional costs to the General Assembly pursuant to G.S. 136-12(b), and to the Joint Legislative Commission on Governmental Operations.

(g) Delegation of Board Duties. – The Board of Transportation shall delegate to the Secretary of Transportation the authority under subdivisions (1) and (2) of this subsection, and may delegate the authority under subdivision (3) of this subsection:

- (1) To approve all highway construction projects and construction plans for the construction of projects;
- (2) To award all highway construction contracts;
- (3) To promulgate rules, regulations, and ordinances concerning all transportation functions assigned to the Department.

The Secretary may, in turn, subdelegate these duties and powers.

(h) Consultation of Board Members. – Each member of the Board of Transportation who is appointed to represent a transportation engineering division or who resides in a division shall be consulted before the Board makes a decision affecting that division.

(i) Disclosure of Contributions. – Any person serving on the Board of Transportation or as Secretary of Transportation on December 1, 1998, shall disclose on that date any contributions the person or the person's immediate family made to the political campaign of the appointing Governor in the two years preceding December 1, 1998. A person appointed to the Board of Transportation and a person appointed as Secretary of Transportation after December 1, 1998, shall disclose at the time the appointment of the person is officially made public any contributions the person or the person's immediate family made to the political campaign of the appointing Governor in the two years preceding the date of appointment. The term "immediate family", as used in this subsection, means a person's spouse, children, parents, brothers, and sisters. Disclosure forms shall be filed with the Bipartisan State Board of Elections and Ethics Enforcement as a supplemental filing to the Statement of Economic Interest filed under Article 6 of Chapter 163A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(j) Disclosure of Campaign Fund-Raising. – A person appointed to the Board of Transportation on or after January 1, 2001, and a person appointed as Secretary of Transportation on or after January 1, 2001, shall disclose at the time the appointment of the person is officially made public any contributions the person personally acquired in the two years prior to appointment for: any political campaign for a statewide or legislative elected office in North Carolina; any political party executive committee or political committee acting on behalf of a candidate for statewide or legislative office. Disclosure forms shall be filed with the Bipartisan State Board of Elections and Ethics Enforcement as a supplemental filing to the Statement of Economic Interest filed under Article 6 of Chapter 163A of the General Statutes. Disclosure forms shall not be a public record under the provisions of Chapter 132 of the General Statutes until such time as the appointment of the person filing the statement is officially made public.

(k) Ethics Policy. – The Board shall adopt by December 1, 1998, a code of ethics applicable to members of the Board, including the Secretary. Any code of ethics adopted by the Board shall be supplemental to the provisions of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. A code of ethics adopted pursuant to this subsection shall include a prohibition against a member taking action as a Board member when a conflict of interest, or the appearance of a conflict of interest, exists. The ethics policy adopted pursuant to this subsection shall specify that a conflict of interest exists when the use of the Board member's position, or any official action taken by the Board member, would result in financial benefit, direct or indirect, to the Board member, a member of the Board member's immediate family, or an individual with whom, or business with which, the Board member is associated. The ethics policy adopted pursuant to this subsection shall specify that an appearance of a conflict of interest exists when a reasonable person would conclude from the circumstances that the Board member's ability to protect the public interest, or perform public duties, would be compromised by personal interest, even in the absence of an actual conflict of interest. The performance of usual and customary duties associated with the public position or the advancement of public policy goals or constituent services, without compensation, shall not constitute the use of the Board member's position for financial benefit. The conflict of interest provision of the ethics policy adopted pursuant to this subsection shall not apply to financial or other benefits derived by a Board member that the Board member would enjoy to an extent no greater than that which other citizens of the State would or could enjoy.

(l) Additional Requirements for Disclosure Statements. – All disclosure statements required under subsections (i), (j), and (k) of this section must be sworn written statements.

(m) Ethics and Board Duties Education. – The Board shall institute by January 1, 1999, and conduct annually an education program on ethics and on the duties and responsibilities of Board members. The training session shall be comprehensive in nature, conducted in conjunction with the Bipartisan State Board of Elections and Ethics Enforcement, and shall include input from the School of Government at the University of North Carolina at Chapel Hill, the Attorney General's Office, the University of North Carolina Highway Safety Research Center, and senior career employees of the various divisions of the Department. This program shall include an initial orientation for new

members of the Board and continuing education programs for Board members at least once each year.

(n) Review of Appointments by the Joint Legislative Transportation Oversight Committee. – The Governor shall submit the names of all proposed Board of Transportation appointees, along with the disclosure statements required under subsections (i), (j), and (k) of this section, to the Joint Legislative Transportation Oversight Committee prior to Board members' taking office. The Committee shall have 30 days to review and submit comments to the Governor on the proposed appointees before they take office. The Governor shall consider the views expressed by the Committee concerning the appointees to the Board. If the Committee does not review or submit comments to the Governor on the proposed Board appointees within the 30 days, the Governor may proceed to appoint the proposed members to the Board.

(o) Additional Ethics Requirements. – Board members shall sign a sworn statement that they will abide by the disclosure, ethics, and education requirements of this section and of Articles 5, 6, 7, and 9 of Chapter 163A of the General Statutes. Following the convening of each Board of Transportation meeting, and prior to the conduct of business, each Board member shall sign a sworn statement that the member has no financial, professional, or other interest in any project being considered on the meeting agenda. To the extent the Board member has such an interest, the chair and member shall take all appropriate steps to ensure that the interest is properly evaluated and addressed in accordance with law and that the member is not permitted to act on any matter in which the member has a disqualifying conflict of interest.

(p) Reports. – Notwithstanding any other provision of law, any report required to be submitted by the Board to the General Assembly or a committee thereof is due by the 15th day of the month that the report is due. (1975, c. 716, s. 1; 1977, c. 464, s. 6; 1981 (Reg. Sess., 1982), c. 1191, ss. 9, 10; 1985, c. 479, s. 185; 1987, c. 738, s. 170(b), (c); c. 747, s. 4.1; 1989, c. 500, s. 53; c. 692, s. 1.10; 1993, c. 483, s. 4; 1995, c. 490, s. 60; 1997-443, s. 32.1; 1997-495, s. 88(a); 1998-169, ss. 1, 2; 2006-201, s. 15; 2006-230, s. 1(c); 2006-264, s. 29(n); 2007-439, s. 2; 2008-180, s. 1; 2010-165, ss. 12, 13; 2012-84, ss. 1, 3; 2014-100, s. 34.11(a); 2015-241, ss. 29.12(b), 29.12(h); 2017-6, s. 3; 2017-57, s. 34.12.)

§§ 143B-351 through 143B-352: Repealed by Session Laws 1977, c. 464, s. 7.

Part 3. North Carolina State Ports Authority Transfer.

§ 143B-353: Repealed by Session Laws 1977, c. 65, s. 3.

Part 4. Navigation and Pilotage Commission.

§ 143B-354: Recodified as § 143B-451 by Session Laws 1977, c. 198, s. 26.

Part 5. Division of Aeronautics.

§ 143B-355. Division of Aeronautics.

There is hereby created the Division of Aeronautics of the Department of Transportation. The Division of Aeronautics shall carry out the duties assigned to the Department of Transportation by Article 1B of Chapter 113 of the General Statutes. (1975, c. 716, s. 1.)

§ 143B-356: Repealed by Session Laws 2011-145, s. 28.17(a), effective July 1, 2011 and Session Laws 2011-266, s. 1.21(a), effective July 1, 2011.

§ 143B-357: Repealed by Session Laws 2011-145, s. 28.17(a), effective July 1, 2011 and Session Laws 2011-266, s. 1.21(a), effective July 1, 2011.

Part 6. North Carolina Railroad and Atlantic and North Carolina Railroad.

§ 143B-358: Repealed by Session Laws 1991 (Regular Session 1992), c. 1030, s. 45, effective July 24, 1992.

Part 7. North Carolina Traffic Safety Authority.

§ 143B-359: Repealed by Session Laws 1981, c. 90, s. 2.

Part 8. Highway Safety Program.

§ 143B-360. Powers and duties of Department and Secretary.

The Department of Transportation is hereby empowered to contract on behalf of the State with the government of the United States to the extent allowed by the laws of North Carolina for the purpose of securing the benefits available to this State under the Federal Highway Safety Act of 1966. To that end, the Secretary of Transportation shall coordinate, with the Governor's approval, the activities of any and all departments and agencies of the State and its subdivisions relating thereto.

All of the duties and responsibilities of the Governor's Highway Safety Program, established pursuant to this section, are transferred to the Office of the Secretary of Transportation. (1975, c. 716, s. 1; 2001-424, s. 27.11(a).)

Part 9. North Carolina Rail Council.

§ 143B-361: Repealed by Session Laws 2011-145, s. 28.17(c), effective July 1, 2011 and Session Laws 2011-266, s. 1.14, effective July 1, 2011.

§ 143B-362: Repealed by Session Laws 2011-145, s. 28.17(c), effective July 1, 2011 and Session Laws 2011-266, s. 1.14, effective July 1, 2011.

§ 143B-363: Repealed by Session Laws 2011-145, s. 28.17(c), effective July 1, 2011 and Session Laws 2011-266, s. 1.14, effective July 1, 2011.

§ 143B-364. Reserved for future codification purposes.

§ 143B-365. Reserved for future codification purposes.

